

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Missouri-American Water)
Company's Request for Authority to Implement) **File Nos. WR-2024-0320, et al**
General Rate Increase for Water and Sewer)
Service Provided in Missouri Service Areas.)

REPLY BRIEF OF THE CONSUMERS COUNCIL OF MISSOURI

The Missouri Consumer Energy Group (MCEG) claims that the UAT proposal is unlawful in that it “unjustly discriminates between customers without a difference in service”.¹ There is absolutely evidence in the record of this case to support such a finding. MCEG offered no testimony of its own to support such a claim. In fact, the applicant Missouri-American Water Company (MAWC) has put forth undisputed sworn testimony to the effect that its low-income customers are actually subsidizing its higher income customers under the Company's current rate design.² That claim of discrimination is based upon a significant level of data on the discretionary use of water and the relationship of that usage to residential household income.³ Higher income customers, on average, cause the utility to incur greater costs on the system, than lower income customers. In reality, based on the evidentiary record we have in this particular case, the stronger legal argument would be to support the opposite finding--that water rates are discriminatory, if the UAT is *not approved*.

¹ MCEG Initial Brief, pp. 22.

² Ex.22, p. 37.

³ Ex. 22, p. 32.

MCEG's claim that the UAT would be illegal is based upon 393.130.2 and 393.130.3 RSMo., which mandate that utility rates cannot be "unjustly discriminatory" nor "unduly preferential". This standard presumes that a certain amount of discrimination is actually allowable, as long as it doesn't do so "unduly" or "unjustly".⁴

One situation that could be considered unjust is a customer class distinction that was without any competent evidentiary support to explain that distinction. As stated above, such situation does not exist in this rate case, because we have competent and substantial evidence to support the discounts proposed in MAWC's UAT. Thus the UAT would not be discriminatory under 393.130.2 and 393.130.3 RSMo. But even if UAT was viewed as discriminatory, such discrimination could not be described as unjust nor undue.

It is important to realize that the Commission has broad discretion when it comes to utility rate design. The law does not mandate any specific customer class distinctions. While some general categories have been traditionally applied, specific customer class definitions have always been set specific to each utility, and based on evidence in a utility specific rate case. For instance, there is no universal "small business" rate class and no universal "commercial" class; the customer class distinctions can vary from one utility to another, and sometimes vary from one rate case to another.

There have also been numerous customer class differences approved by the Commission over the years which are not even based upon the facilities used to connect and serve such customers. For instance, residential and small business⁵ customer classes usually both hooked up to a utility service with the same size of meter, and are served by similar facilities. So why are separate customer classes for residential and

⁴ See *State ex rel. Mo. OPC v. Mo. PSC*, 782 S.W.2d 822 (Mo. W.D. 1990).

⁵ Small business customer classes are often categorized as "general service".

small business classes used? Usually, such a distinction is based upon different usage patterns for each of those classes. Such distinctions are similar to the evidence of usage differences offered by MAWC and other parties to this case, with regard to the usage patterns of low-income versus higher income residential customers.

There are also customer class analogies that can be made between the justification for the UAT and justifications for economic development rates for qualifying commercial and industrial customers. Even though economic development rate design usually requires some contribution to the cost of service, some significant discounts for big customers are not based on differences regarding the cost of providing service. Rather economic development rates can take into account usage patterns, and the revenue requirement impact for other customer classes by increasing the customer base of the utility for the new large customer. This is similar to a recognition of the impact of the UAT to MAWC's revenue requirement for the positive benefit of other customer classes—such as the likely increase in the utility's revenue collectability, and the impact on overall uncollectible expense.⁶

As recommended, it would be reasonable to treat the proposed UAT program as an “experimental pilot program”, to be implemented over the years prior to MAWC's next general rate case, where the program's performance can be more fully analyzed. Experimental status gives the proposed program more leeway as far as legal discrimination concerns go. The “experimental” designation has been given to many prior Commission rate design decisions, going back at least as far as the Experimental Alternative Regulation Plan (EARP) adopted for Union Electric Company.⁷

⁶ Direct testimony of Roger Colton, Ex. 450, p. 53-64.

⁷ Case No. EM-96-149. The EARP lasted from 1997-2001.

As discussed in its initial brief, Consumers Council also acknowledges that a cap on UAT benefits would be reasonable at this time, given the concern raised by MCEG about the potential extent of the program. Based on previous experiments, Consumers Council would expect the rollout to be slow at first.

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The UAT will be the first such program for water customers in Missouri, and thus it will truly be an experiment for Missouri. Consumers Council has committed to working through the envisioned collaborative process to make the UAT program successful for all ratepayers, as well as the utility. Consumers Council believes that it is a good sign that the utility has proposed a low-income program that it thinks will work, and we feel that MAWC deserves the opportunity to give it a try.

WHEREFORE, the Consumers Council continues to support that UAT, as agreed upon in the March 6, 2025 Amended Second Partial Stipulation and Agreement, and recommends that the joint recommendation of that stipulation be adopted by the Commission.

⁸ Case No. EM-96-149. The EARP lasted from 1997-2001.

Respectfully Submitted,

/s/ John B. Coffman

John B. Coffman MBE #36591
John B. Coffman, LLC
871 Tuxedo Blvd.
St. Louis, MO 63119-2044

Ph: (573) 424-6779

Attorney for Consumers Council

April 18, 2025

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties listed on the official service list on this 18th day of April 2025.

/s/ John B. Coffman
